

REMARKS

Claims 1 and 3-10 remain in the application. Claim 2 has been cancelled. Claim 1 has been amended. New claims 9-10 have been added. Claims 1 and 9 are in independent form.

The specification has been amended by inserting a specific reference to the provisional patent application that the above-captioned non-provisional patent application claims the benefit of and priority to. In addition, the specification has been amended at page 4, line 24 by replacing the "linkage 35" with "linkage 34." Thus, it is clear that reference numeral 34 is the linkage, and reference numeral 35 is the shaft.

The drawings have been amended in response to the Examiner's objections thereto under 37 C.F.R. 1.84(p)(5). Specifically, reference sign 25 has been added to Figure 3.

The Examiner has stated that the drawings do not show every feature of the invention specified in the claims. Specifically, the Examiner states that the contoured surface merging with adjacent vehicle panels, as set forth in claim 1, must be shown or the feature cancelled from the claim. Applicant respectfully directs the Examiner's attention to Figures 5 and 11. In Figure 5, the contoured surface of the step 20 merges with a mud guard 52 positioned on both sides of the step 20 such that a uniform appearance is achieved along the motor vehicle. In Figure 11, the contoured surface of the step 20 is flush with the door 23''' of the motor vehicle to provide a clean, uninterrupted appearance. Applicant respectfully submits, therefore, that the contoured surface of the step merging with adjacent vehicle panels is indeed shown in the drawings.

In addition, Applicant has submitted formal drawings herewith. No new matter has been introduced into the drawings.

Further, the Examiner has stated that the reference numbers on the left side of Figures 3 and 4 are not legible. Applicant has amended Figures 3 and 4 so that the reference numbers on the left side of these Figures are legible.

As a result, Applicant believes that the drawings now fully comply with 37 C.F.R. § 1.84(p)(5).

The Examiner has rejected claims 1-3 under 35 U.S.C. § 102(b) as being anticipated by United States Patent 4,188,889 to Favrel ("the '889 reference"). The '889 reference is directed to a retractable running-board including a step 2 that is moved by an operating mechanism between a withdrawn position 2A and a service position 2B. A tread surface 21 is fixed to a top surface of the step 2, and a bearing surface 22 is fixed underneath the step 2. The operating mechanism for operating the step 2 is positioned below a floor 3 and carried by an auxiliary structure 19. Applicant respectfully traverses this rejection.

Applicant has amended independent claim 1 to claim a plurality of mounting brackets fixedly secured to an inner rocker panel, and a step having a contoured surface shaped to provide an inner rocker panel appearance. The '889 reference does not disclose a plurality of mounting brackets fixedly secured to an inner rocker panel, and a step having a contoured surface shaped to provide an inner rocker panel appearance. In the '889 reference, the step 2 does not have a contoured surface shaped to provide an inner rocker panel appearance. As stated at column 3, lines 34-35, "the running-board comprises a substantially rectangular movable step 2...." This movable step 2 does not have a surface that provides an inner rocker panel appearance. In fact, when the retractable running-board is in the withdrawn

position 2A, as shown in Figure 2, the entire movable step 2 is hidden from view by the bearing surface 22. Thus, the '889 reference does not disclose a plurality of mounting brackets fixedly secured to an inner rocker panel, and a step having a contoured surface shaped to provide an inner rocker panel appearance, as is required by amended claim 1 of the above-captioned application.

Therefore, Applicant respectfully requests that the rejection under 35 U.S.C. § 102(b) of claim 1, as well as claim 3 depending therefrom, as being anticipated by the '889 reference be withdrawn.

The Examiner has also rejected claims 4-6 under 35 U.S.C. § 103(a) as being unpatentable over the '889 reference in view of United States Patent 3,887,217 to Thomas ("the '217 reference"). The '889 reference includes a retractable running-board including a step 2 that is moved between a withdrawn position 2A and a service position 2B by a pneumatic jack 17. A bearing surface 22 is fixed underneath the step 2. The '217 reference discloses a reversible motor 42 for moving a step plate 41 between a retracted position and an extended position. Applicant respectfully traverses this rejection.

Claim 4 of the above-captioned patent application claims a motor operatively connected to the linkage for moving the linkage and the step. Claim 4 depends from claim 1 and, as such, includes all of the limitations set forth therein. Specifically, claim 4 of the above-captioned patent application includes the limitation of a plurality of mounting brackets fixedly secured to an inner rocker panel, and a step having a contoured surface shaped to provide an inner rocker panel appearance, as set forth in claim 1.

There is no teaching or suggestion for one skilled in the art to combine the '889 and '217 references. Moreover, the combination of these references would not result in the disclosure of the invention as set forth in claim 4 of the above-captioned patent application.

As mentioned above, the '889 reference discloses a pneumatic jack for moving a step 2 between a withdrawn position 2A and a service position 2B. In the withdrawn position 2A, the step 2 is entirely hidden behind a bearing surface 22. The '217 reference discloses a motor 42 for moving a step plate 41 between a retracted position and an extended positions. There is, however, no teaching or suggestion of a running board assembly including a plurality of mounting brackets fixedly secured to an inner rocker panel, a step having a contoured surface shaped to have the appearance of the inner rocker panel, and a motor for moving the step between its deployed and retracted positions. Thus, combining the cited references would not result in the disclosure set forth in claim 4 of the above-captioned application.

Therefore, Applicant respectfully requests that the rejection under 35 U.S.C. § 103(a) of claims 4-6 as being unpatentable over the '889 reference in view of the '217 reference be withdrawn.

Additionally, new claims 9 and 10 have been added to the above-captioned patent application. No new matter has been introduced into new claims 9 and 10.

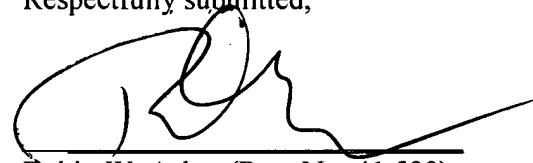
The Examiner has indicated that dependent claims 7 and 8 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Therefore, Applicant has rewritten original claim 7 in independent form as new claim 9 to include all of the limitations of the base claim, original claim 1, and any

Appl'n No: 10/635,093
Amdt dated February 23, 2005
Reply to Office action dated November 24, 2004

intervening claims, original claims 2-6. As a result, it is believed that new independent claim 9, as well as claim 10 depending therefrom, is in condition for allowance.

It is respectfully submitted that this patent application is in condition for allowance, which allowance is respectfully solicited. If the Examiner has any questions regarding this amendment or patent application, the Examiner is invited to contact the undersigned.

Respectfully submitted,



Robin W. Asher (Reg. No. 41,590)
Clark Hill PLC
500 Woodward Avenue, Suite 3500
Detroit, MI 48226-3435
(313) 965-8300

Date: 2/24/05
Attorney Docket No: 19350-094719

AMENDMENTS TO THE DRAWINGS:

The Examiner has objected to the drawings as failing to comply with 37 C.F.R. § 1.84(p)(5) because they do not include reference sign "25" mentioned in the specification. In response, Applicant has amended Figure 3 by inserting or adding reference sign 25 to identify the contoured underside surface of the step. In addition, Applicant submits herewith as replacement sheets formal drawings of Figures 1-11. Finally, Applicant has amended Figures 3 and 4 to clearly indicate the reference numbers on the left side of Figures 3 and 4.

Attachments: 6 replacement sheets-Figures 1-11